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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/621,294

07/17/2003

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5150-40801

2482

7590 08/24/2009  
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EXAMINER

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ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

08/24/2009

PAPER

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* REID LEE

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Appeal 2008-002402  
Application 10/621,294  
Technology Center 3600

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Decided: August 24, 2009

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Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and  
ANTON W. FETTING, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

### STATEMENT OF THE CASE

Reid Lee (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-76. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

### SUMMARY OF DECISION

We AFFIRM.<sup>1</sup>

### THE INVENTION

The invention relates to electronic commerce and, more particularly, “to a system and method for enabling a user of an e-commerce system to visually view and/or configure a product for purchase.” Specification 1:15-16.

The claims on appeal are divided between method claims and “memory medium” claims. The method claims are independent claims 1, 17, 33, 52, 62, and 69, and dependent claims 2-16, 18-32, 34-48, 53-61, 63-68, and 70-75, respectively, and independent claim 76. The “memory medium” claims are claims 49-51.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

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<sup>1</sup> Our decision will make reference to the Appellant’s Appeal Brief (“App. Br.,” filed Jan. 22, 2007) and Reply Brief (“Reply Br.,” filed Aug. 6, 2007), and the Examiner’s Answer (“Answer,” mailed Jun. 5, 2007).

1. A method for enabling a user to configure a system in an e-commerce system, wherein the e-commerce system includes a client system coupled through a network to an electronic commerce server, the method comprising:

receiving a request from a user via the network of the client system to configure the system, wherein the system includes one or more customizable components;

providing an image of the system to the client system via the network for display, wherein images of at least a subset of the one or more customizable components form at least a portion of the image of the system;

determining customizable component selections for at least one of the one or more customizable components of the system in response to user input, wherein said determining customizable component selections comprises:

receiving user input via the network selecting an image of a first customizable component which is visually depicted in the image of the system, wherein said receiving user input selecting the image of the first customizable component operates to select the first customizable component for configuration; and

receiving user input via the network selecting a first customizable component option for the first customizable component, wherein the user input selecting the first customizable component option comprises the customizable component selection for the first customizable component;

wherein the customizable component selections applied to the system specify a configured system.

#### THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Henson	US 6,167,383	Dec. 26, 2000
Motomiya	US 6,083,267	Jul. 4, 2000

IBM Technical Disclosure Bulletin, “Visual Configurator System for Configuring and Ordering IBM Products,” Vol. 34, No. 12, May 1992. (IBM) (hereafter, IBM)

The following rejection is before us for review:

1. Claims 1-76 are rejected under 35 U.S.C. §103(a) as being unpatentable over Henson, IBM, and Motomiya.

#### ISSUE

The issue is whether the Appellant has shown error in the rejection of claims 1-76 under 35 U.S.C. §103(a) as being unpatentable over Henson, IBM, and Motomiya.

#### FINDINGS OF FACT

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

##### *The scope and content of the prior art*

1. Henson relates to an online store which is “one component of an Internet website for which a customer may go to configure a particular computer system, for example, according to desired options of the customer.” Col. 4, ll. 36-39.
2. Henson discloses computer equipment accessing the online store via the Internet coupled to a network as part of an electronic commerce system. *See* col. 5, l. 66 - col. 6, l. 1, and Fig. 2.

3. Motomiya relates to a system for designing an accessory.
4. Motomiya describes a system configured for a user to shop a virtual shop on a terminal via the Internet. Col. 3, ll. 32-39.

5. Motomiya discloses that,

[t]he virtual shops 5 [see Fig. 1] thus accessed transmit to the user terminal 7 information and the photographic images of various parts constituting the original accessories supplied by each of the particular shops. The user selects the parts displayed on the display unit 8 of his terminal and produces an accessory of his originality on the display screen.

Col. 3, ll. 40-45.

6. IBM relates to a visual configurator for configuring and ordering a computer system.
7. IBM discloses a visual representation of a configurable computer system (Fig. 2, p. 369) on a display with menus from which a user may select desired components.

*Any differences between the claimed subject matter and the prior art*

8. The claimed invention appears to be a combination of elements and features separately disclosed in the cited references.

*The level of skill in the art*

9. Neither the Examiner nor the Appellant has addressed the level of ordinary skill in the pertinent art of configuring systems online. We will therefore consider the cited prior art as representative of the level

of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (“[T]he absence of specific findings on the level of skill in the art does not give rise to reversible error ‘where the prior art itself reflects an appropriate level and a need for testimony is not shown’”) (quoting *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F.2d 158, 163 (Fed. Cir. 1985)).

*Secondary considerations*

10. There is no evidence on record of secondary considerations of non-obviousness for our consideration.

## PRINCIPLES OF LAW

*Obviousness*

Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’

*KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized to give light to the

circumstances surrounding the origin of the subject matter sought to be patented.” *Graham*, 383 U.S. at 17-18.

## ANALYSIS

*Claims 1, 9-11, 13, 16, 49, 52, 53, 57, and 58*

The Appellant argued claims 1, 9-11, 13, 16, 49, 52, 53, 57, and 58 as a group. App. Br. 11-16; *see also* Reply Br. 2-3. We select claim 1 as the representative claim for this group, and the remaining claims 9-11, 13, 16, 49, 52, 53, 57, and 58 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Appellant challenges the Examiner’s *prima facie* case of obviousness by arguing that the cited references do not teach or suggest providing an image of the system to the client system via the network and receiving user input via the network selecting an image which is visually depicted in the image of the system. The argument focuses entirely on *Motomiya* and *IBM*. The argument is not persuasive as to error in the rejection.

As the Examiner has made clear (*see* Answer 21), it is *Henson* which is cited as disclosing the configuring of a computer system on a client computer via the Internet (i.e., over a network). This assessment of what *Henson* discloses is not in dispute. The Examiner has admitted that *Henson* employs a text-based, rather than an image-based approach, to configuring



the system on the computer. *See* Answer 5-7. But according to the Examiner, it would have been obvious to modify Henson's text-based system to be an image-based system in view of Motomiya and IBM. Answer 6-7. Accordingly, the Examiner has never taken the position that the references teach or suggest providing an image of the system to the client system via the network and receiving user input via the network selecting an image which is visually depicted in the image of the system as the Appellant has argued but rather took the position that it would have been *obvious* to do so given what the references disclose as a whole.

As to the specific deficiencies in the IBM and Motomiya disclosures that the Appellant has raised (App. Br. 11-13), we agree with the Examiner (Answer 22) that this does little to weaken the *prima facie* case of obviousness. "The question in a §103 case is what the references would *collectively suggest* to one of ordinary skill in the art. *In re Simon*, 461 F.2d 1387, (CCPA 1972)." *In re Ehrreich*, 590 F.2d 902 (Emphasis original.)

To the extent that the Appellant is meaning to argue that the IBM disclosure cannot be combined with Henson as the Examiner has argued because IBM discloses a system on a single machine rather than on a network, such an argument would not persuade us as to error in the rejection given the record before us. The Appellant "submits that those skilled in the art of e-commerce understand that a program executing independently on a single computer cannot teach an e-commerce system, much less providing an image of the system to the client via the network for display." App. Br. 11. But we find no evidence supporting this contention elsewhere in the record. *See generally, In re Glass*, 474 F.2d 1015, 1019 (CCPA 1973).

Attorney argument cannot take the place of record evidence. *See also, In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *Johnston v. IVAC Corp.*, 885 F.2d 1574, 1581 (Fed. Cir. 1989).

Furthermore, at the time of the invention, as evidenced by Henson, computer networking was well known in the art. Given this, one of ordinary skill in the art with the references in hand would be led to adapt the Henson system to communicate images. *Cf. Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, 485 F.3d 1157, 1163 (Fed. Cir. 2007). (“The combination is thus the adaptation of an old idea or invention . . . using newer technology that is commonly available and understood in the art.”)

To the extent the Appellant is meaning to argue that the IBM disclosure cannot be combined with Motomiya as the Examiner has argued because Motomiya is directed to jewelry design rather than configuring a computer system, such an argument would not persuade us as to error in the rejection. The distinction between images of jewelry and images of a computer system is a distinction based on nonfunctional descriptive material.

Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious. *In re Ngai*, 367 F.3d 1336, 1339 (Fed. Cir. 2004). *Cf. In re Gulack*, 703 F.2d 1381, 1385 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability). Furthermore, “[w]hen a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person

of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *KSR*, 550 U.S. at 417.

Finally, the Appellant argued that the Examiner has failed to provide a motivation to combine the prior art such that it would have led one of ordinary skill in the art to the claimed invention. App. Br. 14-16. In fact, the Examiner *did* articulate an apparent reasoning with logical underpinning for the legal conclusion of obviousness. *See e.g.*, Answer 5-7. The Appellant further argued that the cited reference does not “indicate” any motivation/suggestion for the combination. However, that is an overly-strict standard for obviousness. “The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents.” *KSR*, 550 U.S. at 419.

Here we find the references disclose all the elements of the claimed invention that do no more than one would expect if they were combined as claimed. “[W]hen a patent ‘simply arranges old elements with each performing the same function it had been known to perform’ and yields no more than one would expect from such an arrangement, the combination is obvious.” *KSR*, 550 U.S. at 417 (*quoting Sakraida v. Ag Pro, Inc.*, 425 U.S. 273, 282).

For the foregoing reasons, we are not persuaded by the Appellant’s argument as to error in the rejection of claims 1, 9-11, 13, 16, 49, 52, 53, 57, and 58.

*Claims 2-4, 6-8, 56, 66, and 73*

The Appellant argued claims 2-4, 6-8, 56, 66, and 73 as a group. App. Br. 16-17; *see also* Reply Br. 3-4. We select claim 2, as the representative claim for this group, and the remaining claims 3, 4, 6-8, 56, 66, and 73 stand or fall with claim 2. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The arguments raised in challenge to the rejection of claim 2 are essentially the same as those raised against the rejection of claim 1. They are fully addressed above. For the same reasons, we are not persuaded by the Appellant's argument as to error in the rejection of claims 2-4, 6-8, 56, 66, and 73.

We should add, on the subject of the particular problem the Appellant alleges the instant inventor was concerned about that the prior art does not appreciate (*see* App. Br. 17),

[t]he question is not whether the combination was obvious to the patentee but whether the combination was obvious to a person with ordinary skill in the art. Under the correct analysis, any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed.

*KSR*, 550 U.S. at 420.

#### *Claim 5*

The Appellant argued claim 5 at App. Br. 17 and Reply Br. 4. The Appellant argued that the prior art does not show displaying text in the image of the configured system. This appears to be shown in IBM. IBM, p. 369, appears to show an image of a configured system with text in the

image. Accordingly, the argument is not persuasive as to error in the rejection.

*Claims 12, 14, 15, 54, and 55*

The Appellant argued claims 12, 14, 15, 54, and 55 as a group. App. Br. 17-19; *see also* Reply Br. 4. We select claim 12 as the representative claim for this group, and the remaining claims 14, 15, 54, and 55 stand or fall with claim 12. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Claim 12 further defines the “menu comprising the customizable component options” of claim 10 “includes images indicating the customizable component options.” The Examiner argued that claim 12 describes nonfunctional descriptive matter. Answer 12. The Appellant disagrees, arguing in part that “in order to perform the method as claimed, the images must be included/provided in the menu comprising customizable component options. App. Br. 18.

We find that the Examiner has the better argument.

The question of whether claimed subject matter is directed to nonfunctional descriptive material is a question of claim construction. The question here is not whether the prior art would have led one of ordinary skill in the art to include a menu comprising customizable component options. It does. See the discussion re claim 10 above. Nor does there appear to be any dispute that,, as the Examiner has argued (*see* Answer 11), the prior art shows menus comprising customizable component options that are images. *See, e.g.,* IBM, p. 11: “. . . presents one with a picture of an empty machine, and through the use of a mouse, the user is presented with menus

of potential device . . . .”. The question is whether, as claim 12 requires, the menu includes “images *indicating the customizable component options*”. That distinction - that the images are to be indicative of customizable component options - is a distinction based on the content of the image of the menu.

Patentable weight need not be given to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1582-83 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d at 1338. *See also Ex parte Mathias*, 84 USPQ2d 1276 (BPAI 2005) (nonprecedential) (Federal Circuit Appeal No. 2006-1103; WL 2433879 affirmed without written opinion Aug. 17, 2006). In that regard, the Appellant has not come forward with evidence sufficient to show that the structure of the information, i.e., “images indicating the customizable component options”, is functionally affected by it being, specifically, indicative of customizable component options.

Absent such evidence, it was reasonable for the Examiner to conclude that the “images indicating the customizable component options” was descriptive and not functionally related to any structure of the claimed invention and as such fell under the category of patentably inconsequential subject matter. *See Ex parte Curry*, 84 USPQ2d 1272, 1275 (BPAI 2005) (informative) (“Common situations involving nonfunctional descriptive material are: - a computer-readable storage medium that differs from the prior art solely with respect to nonfunctional descriptive material, such as music or a literary work, encoded on the medium, - a computer that differs from the prior art solely with respect to nonfunctional descriptive material

that cannot alter how the machine functions (i.e., the descriptive material does not reconfigure the computer), or - a process that differs from the prior art only with respect to nonfunctional descriptive material that cannot alter how the process steps are to be performed to achieve the utility of the invention. Thus, if the prior art suggests storing a song on a disk, merely choosing a particular song to store on the disk would be presumed to be well within the level of ordinary skill in the art at the time the invention was made. The difference between the prior art and the claimed invention is simply a rearrangement of nonfunctional descriptive material.)” *See also Ex parte Mathias*, 84 USPQ2d 1276 (BPAI 2005) (informative).

For the foregoing reasons, we do not find the Appellant’s argument persuasive as to error in the rejection of claims 12, 14, 15, 54, and 55

*Claims 17, 25-27, 29, 32, 51, 62, 67, and 68*

The Appellant argued claims 17, 25-27, 29, 32, 51, 62, 67, and 68 as a group. App. Br. 19-22; *see also* Reply Br. 4-5. We select claim 17 as the representative claim for this group, and the remaining claims 25-27, 29, 32, 51, 62, 67, and 68 stand or fall with claim 17. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The issue here is whether the limitation “measurement system” in the claimed method is nonfunctional descriptive material as the Examiner has argued it to be. We agree with the Examiner.

The claimed method is not directed to the configuring of a measurement system. Rather, the claimed method is directed to configuring an *image* of a measurement system that a user sees displayed on a client

system. The measurement system is simply a particular content the image carries for display to the user. There is no evidence on the record that the method is structurally or functionally affected by the display of a measurement system as opposed to the display of another device. While we understand that the claimed method is particularly concerned with customizing images of a measurement system, the “measurement system” in the context of the claimed method appears to be mere descriptive material of the image displayed. In that regard, patentable weight need not be given to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. In that regard, the Appellant has not come forward with evidence sufficient to show that the structure of the image is functionally affected by it being, specifically, that of a “measurement system.” Absent such evidence, it was reasonable for the Examiner to conclude that it was descriptive and not functionally related to any structure of the claimed invention and as such fell under the category of patentably inconsequential subject matter.

We have considered the Appellant’s statement submitting “that the difference is not solely an “image” but instead relates how the system would be configured; in other words, configuration of a measurement system requires different choices, possible devices, components, and methods than configuration of a system in general.” Reply Br. 4. However, we are not persuaded by the evidence on the record that one of ordinary skill in the art would not reasonably broadly construe the method claimed as drawn to configuring solely an image. A plain reading of the claim reveals the method claimed as one which, when practiced, yields but one result, a



customized image. We appreciate that the Appellant *intends to use* this image as a blueprint for subsequently physically producing a measurement system matching that blueprint. But that intention is not a part of the claimed method. There is no step of actually producing any measurement system. Rather, the claimed method is expressly worded as a method “for enabling a user to configure a measurement system.” The words of the claim are such that the method claimed is reasonably broadly construed to cover a technique for producing a customized *image* of a measurement system, not the measurement system itself.

The Appellant criticizes the propriety of a rejection under § 103 that relies on finding certain limitations patentably inconsequential as nonfunctional descriptive material on the grounds that (1) such a finding is germane to a rejection under §101, not §103, and (2) all positive words of a claim must be considered. App. Br. 20-22 and Reply Br. 4-5.

The Appellant is correct that all claim limitations must be considered. But we find that the Examiner has amply done so. Nothing in the claim was ignored. Giving certain limitations patentably-inconsequential weight because they are nonfunctional descriptive material is a doctrine that can be applied, where warranted, during a claim construction analysis. And we find, for the foregoing reasons, that the Examiner properly applied that doctrine, in the context of the claim as a whole, when it was determined that certain limitations could only be reasonably broadly construed to be no more than descriptive of the content of an image. The Examiner did not find that the entire claimed method was nonfunctional descriptive material, only the content of the image was so found. Had that not been the case, the Examiner

might have rejected the claim under §101. Instead, the Examiner analyzed the claim as a whole and, but for the subject matter deemed nonfunctional descriptive material, addressed all limitations, showing where in the cited references they were disclosed in an effort to establish a prima facie case of obviousness under §103. We see nothing in the Examiner's analysis which is inconsistent with the law or the guidelines expressed in the MPEP.

For the foregoing reasons, we are not persuaded as to error in the rejection of claims

*Claims 18-20, 22-24, and 63*

The Appellant argued claims 18-20, 22-24, and 63 as a group. App. Br. 22. We select claim 18 as the representative claim for this group, and the remaining claims 19, 20, 22-24, and 63 stand or fall with claim 18. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Appellant states that the “[a]rguments regarding claim 2 above apply to these claims.” App. Br. 22. For the same reasons we found the arguments challenging the rejection of claim 2 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claims 18-20, 22-24, and 63.

*Claim 21*

The Appellant states that the “[a]rguments regarding claim 5 above apply to this claim.” App. Br. 22. For the same reasons, we found the arguments challenging the rejection of claim 5 unpersuasive as to error in

the rejection, we find them unpersuasive as to error in the rejection of claim 21.

*Claims 28, 30, 31, 64, and 65*

The Appellant argued claims 28, 30, 31, 64, and 65 as a group. App. Br. 22. We select claim 28 as the representative claim for this group, and the remaining claims 30, 31, 64, and 65 stand or fall with claim 28. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Appellant states that the “[a]rguments regarding claims 12, 14, and 15 above apply to these claims.” App. Br. 22. For the same reasons we found the arguments challenging the rejection of claim 12 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claims 28, 30, 31, 64, and 65.

*Claims 33, 41-43, 45, 48, 50, 69, 70, 74, and 75*

The Appellant argued claims 33, 41-43, 45, 48, 50, 69, 70, 74, and 75 as a group. App. Br. 22-23. We select claim 33 as the representative claim for this group, and the remaining claims 41-43, 45, 48, 50, 69, 70, 74, and 75 stand or fall with claim 33. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Appellant’s argument, regarding claim 33, appears to rely on the arguments made in challenging the rejections of claims 1 and 17. For the same reasons we found the arguments challenging the rejection of claims 1 and 17 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claims 33, 41-43, 45, 48, 50, 69, 70, 74, and 75.

*Claims 34-36 and 38-40*

The Appellant argued claims 34-36 and 38-40 as a group. App. Br. 23. We select claim 34 as the representative claim for this group, and the remaining claims 35, 36, and 38-40 stand or fall with claim 34. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Appellant states that the “[a]rguments regarding claim 2 above apply to these claims.” App. Br. 23. For the same reasons we found the arguments challenging the rejection of claim 2 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claims 34-36 and 38-40.

*Claim 37*

The Appellant states that the “[a]rguments regarding claim 5 above apply to this claim.” App. Br. 23. For the same reasons we found the arguments challenging the rejection of claim 5 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claim 37.

*Claims 44, 46, 47, 71, and 72*

The Appellant argued claims 44, 46, 47, 71, and 72 as a group. App. Br. 23. We select claim 44 as the representative claim for this group, and the remaining claims 46, 47, 71, and 72 stand or fall with claim 44. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Appellant states that the “[a]rguments regarding claims 12, 14, and 15 above apply to these claims.” App. Br. 23. For the same reasons we

found the arguments challenging the rejection of claim 12 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claims 44, 46, 47, 71, and 72.

*Claims 59 and 61*

The Appellant argued claims 59 and 61 as a group. App. Br. 23. We select claim 59 as the representative claim for this group, and the remaining claim 61 stands or falls with claim 59. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Appellant states that the “[a]rguments regarding claim 17 above apply to these claims.” App. Br. 23. For the same reasons, we found the arguments challenging the rejection of claim 17 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claims 59 and 61.

*Claim 60*

The Appellant states that the “[a]rguments regarding claim 33 above apply to this claim.” App. Br. 24. For the same reasons we found the arguments challenging the rejection of claim 33 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claim 60.

*Claim 76*

The Appellant argued claim 76 at App. Br. 24. The Appellant’s argument appears to rely on the arguments made in challenging the rejections of claims 1 and 17. For the same reasons we found the arguments

challenging the rejection of claims 1 and 17 unpersuasive as to error in the rejection, we find them unpersuasive as to error in the rejection of claim 76.

### CONCLUSION

We conclude that the Appellant has not shown that the Examiner erred in rejecting claims 1-76 under 35 U.S.C. §103(a) as being unpatentable over Henson, IBM, and Motomiya.

### DECISION

The decision of the Examiner to reject claims 1-76 is affirmed.

### AFFIRMED

mev

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